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REMARKS

The Applicant thanks the Examiner for the continued consideration this application. This is a response to the Office Action mailed on May 13, 2010.

35 U.S.C. §112

In an Office Action mailed on 13 May 2010, claims 1-12 and 26 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement. The examiner consider the limitation "enable and disabled together" as failing to comply with the enablement requirement because the configuration parameters cannot enable and disable together at the same. Claims 2-12 and 26 are also rejected under 35 U.S.C. §112, first paragraph, for the same rationale of claim 1 above.

The Applicant respectfully disagrees with this rejection. The Examiner should not assign a meaning to a claim term that renders the term nonsensical when equally reasonable interpretations are evident from the context, Specification, and basic rules of English grammar. The claims describe selecting at least one subsets of a plurality of standardized network equipment configuration parameters, each subset comprising a plurality of individual configuration parameters that may be enabled and disabled together. Clearly under common rules of English grammar, and from the context of the claim and from the Specification, this describes a subset of configuration parameters that can be enabled together as a group and disabled together as a group.

The Applicant appreciates the Examiner's continued consideration of this application, but respectfully asserts that rejections such as this are specious and do nothing to advance prosecution. The Examiner's interpretation that the parameters of a subset are both enabled and disabled at the same time, instead of enabled together and disabled together, is unreasonable and in contravention of common sense, context, rules of grammar, and the description of the claimed process in the Specification. It furthermore inserts an element of timing and coordination which is not recited in the claims or Specification.

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35 U.S.C. §101

Claims 28-29 are rejected under 35 U.S.C. §101 because of the following reasons: Claim 28 would allegedly be interpreted by one of ordinary skill as "machine-readable media" of software per se, failing to fall within a statutory category of invention. Claim 29 is also rejected under 35 U.S.C. §101 as being directly dependent on independent claim 28.

Claims 28 and 29 describe a cable modem, which belongs to a statutory class of inventions. Furthermore these claims describe the cable modem including a machine-readable media comprising an operating software load. Machine readable media comprising instructions (e.g. comprising 'software') are not software per se, and have been deemed statutory both in numerous precedential opinions of the CAFC and in the PTO's own examination guidelines. Although software per se is not statutory, a machine readable media embodying software has been held as a composition of matter suitable for patenting. The claims describe the operating software load adapted with switch settings each controlling a predetermined group of device settings for compatible operation between customer equipment and equipment of a communication network. Each switch turns a group of device settings on or off. These features associate acts recited in the claims with parts of interacting machines, which again is evidence of the claims statutory nature. The claims further describe the modem comprising a communication interface adapted to receive data in the form of a configuration file; this is a structural element, not software. The operating software load is adapted to apply the settings of the switches in the configuration file to set the switches of the operating software load on or off, thus enabling or disabling entire groups of settings of the cable modem for each switch setting of the configuration file. This feature recites switch settings to control features of a cable modem using a configuration file, all elements that are essentially structural and statutory.

For at least these reasons, the rejection of these claims as non-statutory subject matter should be withdrawn.

35 U.S.C. §103(a)

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Claim 13, 17, and 27-29 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Synnestvedt et al., United States Patent Number 6,598,057 (hereinafter Synnestvedt), in view of Chapman et al., United States Patent Publication Number 2006/0262722 (hereinafter Chapman).

The Applicant respectfully disagrees. Claim 13 is exemplary. Claim 13 describes a system for configuring customer equipment in a communication network. An operating software load of the customer equipment includes switch settings each controlling a predetermined group of device settings for compatible operation between the customer equipment and equipment of the communication network. Each switch turns a predetermined group of device settings on or off. Each predetermined group includes a plurality of settings which either are or are not implemented by a particular type of the equipment of the communication network. The operating software load applies the settings of the switches in a configuration file to set the switches of the operating software load on or off, thus enabling or disabling entire groups of settings of the customer equipment for each switch setting of the configuration file.

Synnestvedt describes the generation of DOCSIS compatible configuration files using policy descriptions. Abstract. An id-encoded filename is parsed to extract parameters which are matched to a set of configuration policy data to create configuration file parameters. Abstract and FIG 3.

Synnestvedt describes the generation of DOCSIS compliant cable modem configuration files with appropriate classes of service, based upon a request from the cable modem and using user registration information stored in an LDAP directory. Col 3 ll 40-53.

Synnestvedt describes that the configuration files can be used to define the equipment's operating mode, such as: downstream and upstream service assignments, assigned frequencies, data rates, modulation schemes, class of service, and type of service. Col 5 lines 11-32.

Synnestvedt describes locating a CMTS group modem provision object by searching for a CMTS group modem provision object in a directory or cache during generation of the configuration file. If a CMTS group modem provision object is not

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found or if multiple CMTS group modem provision objects are found, then the directory
or cache is corrupt and the configuration file generation aborts. The CMTS group modem
provision's element type attribute is checked for the value of "CMTS Group". If this
check fails, then the directory or cache is corrupt and the configuration file generation
aborts. Col 9 ll 43-62.

Synnestvedt does not disclose a configuration file with settings for the switches of
operating software load of the customer equipment where the switches in the
configuration file set switches of the operating software load on or off, thus enabling or
disabling entire groups of settings of the customer equipment for each switch setting of
the configuration file. Synnestvedt does not disclose that the configuration file has
settings for switches in the modem load module where each switch setting controls a
predetermined group of device settings for compatible operation between the customer
equipment and equipment of the communication network, each switch turning a
predetermined group of device settings on or off, each predetermined group comprising a
plurality of settings which either are or are not implemented by a particular type of the
equipment of the communication network.

Chapman discloses a system for communication between a CMTS and cable
modems. FIG 4. Chapman describes the network including nodes that communicate with
a head end via at least one upstream channel and at least one downstream channel. Traffic
loads on selected upstream and downstream channels are analyzed for accommodating
bandwidth allocation requests from the nodes. A particular downstream channel is
selected for accommodating the bandwidth allocation request. A dynamic channel change
request is transmitted to switch the network node to a selected downstream channel. Par
17.

Chapman describes the CMTS with software to enable the different line cards
within the CMTS to speak to each other. Synchronization between the each of the various
line cards within the CMTS is achieved by designating each MAC controller (e.g. 306a,
308a) as either a master or slave time reference device, or by utilizing additional
synchronization circuitry 350, as shown for example, in FIG. 3B. Par 44.

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Chapman discloses that a Dynamic Channel Change Request (DCC-REQ) may be transmitted by a CMTS to cause a DCC-enabled cable modem (CM) to change the upstream channel on which it is transmitting, the downstream channel on which it is receiving, or both. An example of the format of a DCC-REQ message is shown in FIG. 11A of the drawings. Par 74.

Chapman discloses that if privacy is enabled, a DCC-REQ may also include a HMAC-Digest attrubute. The HMAC-Digest attribute is a keyed message digest (to authenticate the sender). The HMAC-Digest attribute may be the final attribute in the Dynamic Channel Change message's attribute list. Par 85.

Chapman does not disclose that an operating software load of the customer equipment includes switch settings each controlling a predetermined group of device settings for compatible operation between the customer equipment and equipment of the communication network, where each switch turns a predetermined group of device settings on or off, where each predetermined group includes a plurality of settings which either are or are not implemented by a particular type of the equipment of the communication network.

Neither reference discloses the claimed configuration file comprising settings for the switches of operating software load of the customer equipment where the switches in the configuration file set switches of the operating software load on or off, thus enabling or disabling entire groups of settings of the customer equipment for each switch setting of the configuration file. Neither reference discloses that the configuration file has settings for switches in the modem load module where each switch setting controls a predetermined group of device settings for compatible operation between the customer equipment and equipment of the communication network, each switch turning a predetermined group of device settings on or off, each predetermined group comprising a plurality of settings which either are or are not implemented by a particular type of the equipment of the communication network.

Furthermore, neither reference discloses that an operating software load of the customer equipment includes switch settings each controlling a predetermined group of device settings for compatible operation between the customer equipment and

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equipment of the communication network, where each switch turns a predetermined group of device settings on or off, where each predetermined group includes a plurality of settings which either are or are not implemented by a particular type of the equipment of the communication network.

None of these features of the claims are disclosed or shown to be inherent in the cited references. None of these features have been shown to obviously arise from the combined teachings of the references. Therefore, the Applicant respectfully requests that the rejection under 35 USC 103 be withdrawn.

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Conclusion

In view of the above amendments and remarks, applicant believes that this application is now in condition for allowance. Applicant respectfully requests that a Notice of Allowability be issued covering the pending claims. If the Examiner believes that a telephone interview would in any way advance prosecution of the present application, please contact the undersigned.

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